



July 10, 2000

Ms. Sarajane Milligan
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2000-2566

Dear Ms. Milligan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 136875.

The Harris County Sheriff's Department (the "department") received a request for "the official announcements and postings for deputies and detectives vacancies and transfers" for the years 1996 through 2000 and pertaining to the "CID/Gang Unit," "Investigative Support Unit," "Major Violators Unit," "Houston HIDTA," "Gang Unit," and "FBI/JDIG." You have submitted for our review a representative sample of information that is responsive to the request, consisting of three personnel directive forms and three personnel announcements.¹ You assert that the requested information is excepted from disclosure under section 552.103 of the Government Code, the "litigation exception," because the information relates to pending litigation involving the department. We have considered the exception you claim and reviewed the submitted information.

In pertinent part, section 552.022 of the Government Code provides that unless "expressly confidential under other law" the following categories of information are public information and are not excepted from required public disclosure:

¹In reaching our conclusion here, we assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

...

(15) information regarded as open to the public under an agency's policies[.]

Gov't Code § 552.022(a)(2),(15). The personnel directive forms are indicated on their face to comprise job announcements. The forms describe a job opening, state the required and preferred qualifications for the job, state the criteria for an applicant to be considered for the position, and indicate a deadline by which applications must be submitted. Although you do not state whether these forms were publicly posted, we have every indication that this information was publicly released in its entirety. The job announcements are in the form of correspondence addressed to "all personnel" and "all certified personnel." Each announcement states that a named individual has been selected to fill a previously announced opening, and two of the announcements indicate on their face that they were publicly posted. Although your comments to this office make reference to no policy of the department as to the public nature of this information, we believe that the submitted information must be regarded as open to the public under the department's policies.² Pursuant to the above-cited subsections of section 552.022, the information you have submitted therefore may not be withheld from the public unless it is "expressly confidential under other law." You make no arguments in this regard, nor are we aware of any law that expressly makes this information confidential. We note that section 552.103 is a discretionary exception under the Act and does not constitute other law that makes information confidential. Accordingly, we conclude that the department must release the information to the requestor in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general

²This office inquired by telephone with the department's human resources office which confirmed that the information at issue is routinely posted on bulletin boards to which the public has access, and is available through a telephone "job line" to which the public has access.

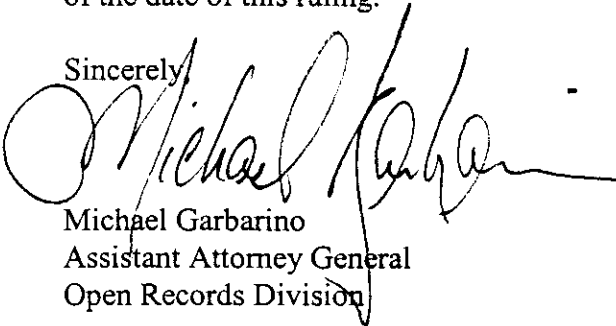
have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", is written over the typed name and title.

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/pr

Ref: ID# 136875

Encl. Submitted documents

cc: Mr. Godfrey T. Eta
2106 Laurel Oaks Drive
Houston, Texas 77014-3604
(w/o enclosures)